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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,587	12/27/2001	Gerald K. Sosalla	1443.028US1	1705

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EXAMINER

KIM, EUGENE LEE

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/034,587	Applicant(s) SOSALLA, GERALD K.	
	Examiner Eugene L Kim	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 5/17/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. Claims 1-2, 5-7, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by De Ligt as discussed in paragraph 4 of the last office action.

Claim Rejections - 35 USC § 103

2. Claims 18, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Ligt as discussed in paragraph 6 of the last office action.
3. Claims 3 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Ligt in view of De Matteis et al (#6,228,014). De Ligt discloses cutting a web at a crease line but De Ligt does not show a perforated web as claimed. De Matteis et al is showing this well known concept of using perforated webs (col 6 lines 45+) as an alternative to cutting a web wherein it appears that gripping means 8a, 8b are gripping at nonperforated areas. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide De Ligt with the use of perforated webs as taught by De Matteis et al to use known perforated means for tearing as an alternative for cutting a web.
4. Claims 4, 8-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Ligt in view of Winnemoller et al as discussed in paragraph 4 of the last office action.
5. Applicant's arguments filed 5/17/2004 have been fully considered but they are not persuasive.

In response to applicants argument regarding primary reference De Ligt not showing the claimed limitations, the examiner disagrees with this contention. The examiner is reading the claims in a broad context in light of the specification. De Ligt shows a first belt moving the web wherein the web is stuck on the belt at point 21 (fig 12) and the web is moved by the belt to a first side of a stack since the web is moving to a gripper which forms the first side of the stack. The claim does not recite that the belt moves the web "directly" to a first side of a stack, and, therefore, De Ligt reads on the claimed subject matter.

In response to applicants arguments regarding the perforated web, see supra. Furthermore, the examiner notes that expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim. See ex parte Thibault, 164 USPQ 666, 667 (Bd App. 1969). Furthermore, inclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims. In re Young, 75 F.2d 996, 25 USPQ 69 (CCPA 1935) (as restated in In re Otto, 312 F.2d 937, 136 USPQ 458, 459 (CCPA 1963)

In response to applicants argument regarding claims 18, 21-23, examiner did not take official notice for these claims. Examiner applied case law as discussed in the previous office action regarding optimum ranges.

In response to applicants argument regarding the textured roller, the examiner maintains rejection set forth in the previous office action using secondary reference Winnemoller et al. Winnemoller et al show roller 17 that feeds a web to a belt means 3

to ensure that the film is fed neatly to the conveyor means (col 5 lines 40+).

Winnemoller et al disclose that the first conveyor means has means for adhering the film web to the first conveyor means (col 6 lines 53+). Furthermore, the claims merely recite a textured roller which roller 17 reads on. The roller inherently either has a smooth texture or rough texture. In either case, the roller is "textured" as claimed in a broad context. The roller 17 of Winnemoller is performing the same function as applicants textured roller.

In response to applicants assertion that examiner took official notice on an upstream one of a first pair of pulleys including a textured roller, the examiner did not take official notice on this limitation. Examiner applied case law regarding location of parts as discussed in paragraph 7 of the last office action.

Lastly, applicant argues that there is no motivation to combine the references. Examiner has provided the motivation as set forth in Winnemoller to ensure that the film is fed neatly to the conveyor means (col 5 lines 40+).

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene L Kim whose telephone number is 571 272-4463. The examiner can normally be reached on Tuesday-Friday 8 a.m. to 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eugene L Kim
Primary Examiner
Art Unit 3721